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**MAILED**

**MAY 12 2011**

**OFFICE OF PETITIONS**

In re Application of :  
Akira Takaguchi, et al. :  
Application No.: 10/573,449 : **DECISION ON PETITION**  
Filed: January 19, 2007 :  
Attorney Docket No.: 1082/HIROSE :

This is a decision on the petition, filed April 4, 2011, under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 22, 2010. A Notice of Abandonment was mailed on March 31, 2011.

Petitioner states that a timely reply was filed by facsimile transmission on February 22, 2011. In support, petitioner submitted a copy of an Auto-Reply Facsimile Transmission, showing receipt of, *inter alia*, a RCE transmittal letter – 3 pages, credit card payment form PTO-2038 – 1 page, and an Amendment – 22 pages. It is noted that the RCE request included a request for a 2-month petition for extension of time and fee. A copy of the previously submitted reply also accompanies the petition, which bears a certificate of mailing dated February 22, 2011, which would have rendered the reply timely if received.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received

in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of September 22, 2010 is hereby withdrawn and the application restored to pending status.

The Notice of Abandonment mailed March 31, 2011 is vacated.

The copy of the reply received with the petition will be accepted in place of the reply shown to have been transmitted by facsimile on February 22, 2011.

This application is being referred to Technology Center AU 1734 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions